Section 271 environment. As demonstrated in Section III above, Birch's commercial experience , proves that the framework is inadequate in a pre-Section 271 environment in Georgia. Birch believes that the performance standard framework will yield the only true empirical validation of backsliding by an RBOC in a post-Section 271 environment.[38] Without the modifications and requirements proposed below by Birch—modifications and requirements that are consistent with the levels to which Verizon and SWBT were found to be Section 271 compliant by this Commission—Birch is confident that competition will not survive in Georgia post-Section 271. In their current form filed with this Commission, BellSouth's SQM fails to satisfy checklist item 2. Unless and until they are modified, the Commission must deny the Application.

A. FOC TIMELINESS AND REJECT INTERVAL

FOC Timeliness measures the amount of time it takes for BellSouth to return an FOC to the CLEC and Reject Interval measures the amount of time it takes to return a reject response (indicating CLEC error on the order for correction). Since these measures do not have a retail analog, the Commission analyzes them under the "meaningful opportunity to compete" standard.[39]

While the processes for performing the ordering functions may differ between CLECs and BellSouth, the end result is the same—validating a date that service will be provided to the consumer. It is critical that a competitor be able to

[38] In the case of BellSouth, not only has Birch's analysis revealed data integrity concerns, but also seems to indicate that BellSouth's performance is so low in some areas that it is engaging in "frontsliding" – performing at levels so low prior to 271 approval.

[39] *Texas Order*, ¶ 170.

provide a consumer's service at parity with BellSouth. As such, the timeliness with which such requests are fulfilled should be an ultimate deciding factor in determining ordering standards. In fact, in prior Section 271 orders this Commission held:

> the functionality encompassed by order confirmation notices is a very important element of the ordering process, and that data demonstrating that they are provided in a timely manner is a key consideration for assessing whether competitors are allowed a meaningful opportunity to compete.[40]

Of specific concern to Birch are the standards associated with BellSouth's manual handling of electronically submitted LSRs. Such orders are referred to as "partially mechanized." Due to system limitations in BellSouth's OSS, partially mechanized LSRs require BellSouth representatives to manually re-type CLEC orders so they can be accepted by BellSouth's ordering systems or manually return a notice to the CLEC indicating an error is present on the LSR. *Sauder Aff.*, ¶¶ 34-35. By contrast, fully mechanized LSRs are also electronically submitted by CLECs, but do not require any manual intervention by BellSouth (i.e. they flow-through). Fully mechanized LSRs are processed in close to real time and ultimately provide CLECs with nondiscriminatory access to the ordering function.

For partially mechanized orders, BellSouth must only return 85% of FOC and reject responses within 18 business hours for the months of May through July 2001 and within 10 business hours for August. The data upon which the BellSouth application relies was captured during May through July and thus must meet the less stringent 18 hour standard. By contrast, the Texas (and also Kansas and Oklahoma) standard requires SWBT to return 95% of FOC responses within five

[40] *Id.*, ¶ 171; *Second Louisiana Order*, ¶ 120; *New York Order*, ¶¶ 163-164.

business hours and 95% of partially mechanized rejects within five business hours. *Sauder Aff.*, ¶35. The New York standard to which Verizon is held to for partially mechanized orders requires the return of 95% of FOC and reject responses in 24 clock hours, or roughly 10 business hours. *See Sauder Aff.*, ¶¶ 35-36.[41]

BellSouth's handling of CLEC LSRs is more closely aligned with the process employed by Southwestern Bell than Verizon. *Sauder Aff.*, ¶ 36. Therefore, BellSouth should be held to the same standards to which Southwestern Bell is held, and upon which this Commission granted Section 271 approval, for FOC and reject response timeliness. Birch believes that CLECs do not have a meaningful opportunity to compete, as contemplated by this Commission and stated above, when BellSouth is only required to return FOC and reject responses 85% of the time within 10 business hours. Birch suggests that BellSouth be required to perform at 95% within five business hours (or 10 business hours at a maximum) and provide evidence to this Commission of its compliance with this standard, prior to receiving Section 271 approval in any of the BellSouth states. This change to the current SQM is consistent with the levels required of Verizon and Southwestern Bell, and upon which those carriers have gained Section 271 approval from this Commission in several states.

B. FLOW-THROUGH

As discussed at length herein, Birch is extremely reliant on BellSouth's manual processes to provision Birch's services. Since Birch experiences flow-

[41] Verizon representatives actually correct some CLEC-caused errors in the provisioning process, thus accounting for the additional time allowed for this standard by the New York Commission and ultimately the FCC. *New York Order,* ¶ 160.

through in the 55-65% range (excluding Birch-caused errors and orders not designed to flow-through), Birch is forced to rely on BellSouth's manual processes for 35-45% of Birch's orders, forcing Birch to operate in an inefficient manner. BellSouth's measurement for Flow-Through measures flow-through by determining which CLEC LSRs are eligible to flow-through and then measures how many of the eligible and accurate (containing no CLEC-caused errors) LSRs are handled electronically by BellSouth. Under the current SQM, BellSouth must ensure that only 85% of eligible UNE orders flow-though. *Sauder Aff.*, ¶ 40. As Birch's commercial experience reflects, BellSouth cannot meet even this lowly standard.

In New York, Massachusetts and Connecticut, Verizon is required to ensure that 95% of all eligible LSRs flow-through, a standard upon which all three Section 271 applications were approved for those states.[42] The standard to which SWBT is held in Texas, Kansas and Oklahoma is a little more stringent in that SWBT is held to parity with its retail, since the affected Commissions have treated services comparable to the wholesale services offered by CLECs as though there is a retail analogue present. *Sauder Aff.*, ¶ 40. When this parity standard is met by SWBT, CLECs unequivocally enjoy nondiscriminatory access to the ordering function.

This Commission has previously found that a minimum of 95% flow-through of eligible LSRs is the standard necessary to ensure that CLECs have nondiscriminatory access to the ordering function, as evidenced by its approvals of the Section 271 applications of Verizon and SWBT in multiple states. There is no rational basis to approve BellSouth's current application at a level lower than that

[42] *See, e.g. New York Order*, ¶ 160.

required of either Verizon or SWBT. There is nothing unique regarding BellSouth's processes that would support a Section 271 approval at the 85% level.

C. PROVISIONING

The Average Completion Interval measurement is designed to measure the amount of time it takes for a CLEC's order to be completed by BellSouth. BellSouth's Business Rule for this measurement indicates that the start time is a CLEC's receipt of the FOC from BellSouth and the end time is when BellSouth completes the order. This parameter directly contravenes this Commission's prior direction to BellSouth. In fact, this Commission was clear in its intent to require the Average Completion Interval measurement to measure the interval from when a CLEC sends its order to BellSouth to when an order is actually provisioned.[43] In the *First Louisiana Order*, the Commission specifically reminded BellSouth:

> As we stated in the *BellSouth South Carolina Order*, the most meaningful average installation interval measure is the average time it takes from when BellSouth first receives an order from a competing carrier to when BellSouth provisions service for that order.[44]

Currently, BellSouth begins measuring the interval when a CLEC receives a FOC from BellSouth. If BellSouth began the start time when a CLEC first submits its LSR, as previously mandated by this Commission, it would be a more accurate reflection of the amount of time it takes for BellSouth to process and provision a CLEC's order. Contrary to this Commission's prior rulings, rulings upon which this Commission partially relied to deny several previous BellSouth

[43] *South Carolina Order*, ¶ 136.

[44] *First Louisiana Order*, ¶ 41.

applications, BellSouth continues to measure and apply the Average Completion Interval measurement improperly.

Prior to gaining Section 271 approval, BellSouth must be required to change the way in which it measures the interval used to determine if CLECs are able to provide service at parity with BellSouth. Specifically, BellSouth should be required to use the timestamp of when the LSR was submitted by the CLEC as the start time, rather than when the CLEC receives a FOC from BellSouth. *Sauder Aff.*, ¶ 42. This is not only consistent with the Commission's prior directives to BellSouth, but also with the parameter used for Verizon and SWBT in their approved Section 271 applications. Without this modification to the measurement and Business Rule, the actual amount of time it takes BellSouth to process CLEC orders and actual provisioning of the same is never truly revealed. *Sauder Aff.*, ¶ 42. It is imperative that BellSouth be required to utilize the timestamp of when the LSR is submitted by the CLEC as the start time, particularly for CLECs that must rely on excessive manual processes used by BellSouth. *See Sauder Aff.*, Attachment 10. This is the only true indication of whether CLEC's orders are provisioned at parity with BellSouth retail.

V. CONSISTENT OSS SYSTEM OUTAGES ARE EVIDENCE OF DEFICIENCIES IN BELLSOUTH'S OSS

As previously mentioned, Birch has only operated in the BellSouth region since the first quarter 2001. Unfortunately, during this short period of time, Birch has experienced a significant number of system failures of BellSouth's Telecommunications Access Gateway ("TAG"), BellSouth's primary OSS. *Wagner Aff.* at 3. The TAG failures have resulted in either system downtime, degradation of service or loss of functionality. *Id.* Such system failures severely impede Birch's

ability to process service orders timely and efficiently, and therefore deny Birch a meaningful opportunity to compete.

For the month of June 2001, BellSouth reported eight separate instances in which TAG failed in some capacity. *Stacy Aff.*, ¶ 361. However, BellSouth only reported those outages that resulted in 20 minutes or more of downtime, degraded service or loss of functionality. *Wagner Aff.* at 3. BellSouth's reporting is not reflective of what Birch is actually experiencing in its provisioning operations. In order to highlight the impact that TAG failures have had, Birch has regularly tracked outages, degraded system response time and loss of functionality for periods five minutes and greater. *Id.* The data is staggering. For the month of June 2001, Birch experienced *over 30 incidents* of TAG failures that were not reported in BellSouth's Change Control Outage Report or identified by Mr. Stacy. *Id.* Birch utilizes a BellSouth provided provisioning interface (which Birch purchases from BellSouth outside of the inter-connection agreement) called RoboTAG™ that directly links into TAG, so each time TAG fails in some capacity, it completely impedes Birch's ability to provision orders mechanically. *Id.*[45] It is impossible to conclude that Birch has a meaningful opportunity to compete under these circumstances.

Birch was also severely impacted by a prolonged TAG failure that occurred from August 2 through August 6, 2001. *Wagner Aff.* at 4. During this time, Birch was *unable to provision 75% of its normal daily order volume. Id.* Birch

[45] Birch expressed its concerns regarding the number of TAG failures in the Change Control process and requested that Change Control investigate the root cause. Birch was informed it needed to direct its concerns to its account team. *Wagner Aff.* at 3.

attempted to meet its customer commitments by working through the weekend of August 4 and 5, but was unsuccessful in its efforts. *Id.* Birch immediately brought this crippling TAG failure to the attention of its account team, hoping to obtain a swift resolution and assurances of a short and long term plan to resolve TAG system reliability. *Id.* To date, Birch has not received a written response from BellSouth regarding its inquiry. Birch finds that this unconcerned attitude pervades the entire wholesale branch of BellSouth.[46]

Unexplained OSS system failures have forced Birch's mechanized provisioning environment to become more manual and inefficient too many times since entering the BellSouth region earlier this year. At times, the TAG failures have brought Birch's provisioning process to a virtual standstill. These types of hindrances to Birch's operations further support Birch's contention that BellSouth has tangible deficiencies in its OSS. The deficiencies are further complicated by BellSouth's unwillingness to address the failures. Although Mr. Stacy states that BellSouth is concerned about all outages of its OSS systems, Birch has revealed BellSouth's true colors when it comes to BellSouth's commitment to being the type of wholesale vendor that deserves Section 271 approval. BellSouth cannot satisfy the nondiscrimination standard when its OSS systems consistently prove to lack stability and integrity.

---

[46] Again, Birch likens BellSouth's attitude to that of SBC in the summer of 1999, prior to engaging in the infamous "271 Collaboratives" with CLECs and the Texas Commission. It was during that time that a noticeable change in SBC's corporate attitude toward CLECs and its wholesale operations appeared. Birch believes that SBC's commitment to improving its wholesale operations, systems and services was instrumental to SBC obtaining Section 271 authority.

VI. BELLSOUTH'S CHANGE CONTROL PROCESS IS INEFFECTIVE AND SIGNIFICANTLY IMPAIRS BIRCH'S ABILITY TO ACCESS BELLSOUTH'S OSS IN A NONDISCRIMINATORY MANNER

Birch's experience with BellSouth's Change Control Process has been anything but productive. BellSouth's uncooperative corporate attitude seems to permeate this aspect of its business As the Commission previously found, "Change management problems can impair a competing carrier's ability to obtain nondiscriminatory access to UNEs, and hence a BOC's compliance with Section 271(2)(B)(ii)."[47] Birch's experience with BellSouth's process has been wholly unsatisfactory. BellSouth has consistently proven that it is unwilling to work collaboratively with Birch and other CLECs to develop joint resolutions of problems with BellSouth's OSS. The problems that Birch experiences with Change Control, as well as those enumerated by other CLECs, significantly impair Birch's ability to obtain nondiscriminatory access to BellSouth's OSS.

The CLEC Application Verification Environment ("CAVE") is designed to test all major releases of BellSouth's wholesale OSS. *Stacy Aff.*, ¶ 170. However, CAVE is not used to test releases to BellSouth's Local Exchange Navigation System ("LENS"), despite CLEC requests, due to the fact that LENS is a proprietary interface to BellSouth. This means that BellSouth conducts any modifications on its side, negating any work on the CLEC side and apparently any need for CLECs to test LENS releases prior to implementation. *Stacy Aff.* at 177. BellSouth's refusal to allow pre-implementation LENS release testing in CAVE is creating chaos in Birch's provisioning process.

---

[47] *Texas Order* at ¶ 107.

On June 28, 2001, Birch was notified via a Carrier Notification Letter (and again through Change Control on July 25, 2001) that certain LENS updates "to improve stability and performance" would be implemented as part of the 9.4 release on July 28, 2001. *Wagner Aff.* at 5. The Carrier Notification Letter specifically identified upgrades to the "formatting and enhanced data retrieval response time performance for the LENS Customer Service Record ("CSR"). *Id.* Essentially, BellSouth was purportedly attempting to improve its performance for CSR retrieval response times to meet metrics prescribed by various BellSouth internal applications. *Id.* Regrettably, the inability to test this release prior to implementation resulted in a significant disruption in Birch's provisioning process, forcing Birch to replace its standard mechanical provisioning process with a manual solution. *Id.* at 5-7.

This LENS release resulted in Birch being unable to determine if there was a Pending Service Order ("PSO") or a Local Service Freeze ("LSF") on the customer's account. If a PSO or LSF is present on a CSR, a CLEC order is "clarified," or rejected back to the CLEC. BellSouth's LENS release erased Birch's ability to determine whether there is a PSO or LSF on an account, prior to submitting an order, since the presence of the PSO or LSF would prevent an order from being processed in a timely manner. In order to address the issues presented by the inability to electronically view a PSO or LSF on a CSR through the OSS, BellSouth's Change Control requested that Birch manually fax each individual LSR affected by this problem, and then call the LCSC to verify the existence of a PSO or LSF on a customer's account. *Id.* Birch was forced into this manual "work around" for approximately 10% of its total monthly order volume. *Id.*

Birch addressed the 9.4 release effects by submitting a Change Request on August 15, 2001, which BellSouth subsequently identified as "system defects." *Id. See Wagner Aff.* at 6-7. On August 20, 2001, BellSouth informed Birch that, due to "coding implications," the PSO issue would not be resolved until a major release scheduled for January 5, 2002. *Id.* at 6. BellSouth also indicated that no resolution has been determined for the LSF issue. *Id.* Birch has appealed the lengthy resolution timeframe with Change Control and also escalated the issue within its Account Team. *Id.* at 6-7. BellSouth's timeframe is simply unacceptable and anti-competitive in that Birch will be forced to continue to utilize the manual workaround for at least five months prior to the release through which resolution will supposedly occur.[48]

From a practical standpoint, Birch cannot provision its customer's orders efficiently if a PSO or an LSF is on the customer's account. In fact, both a PSO and an LSF must be removed, either with the help of BellSouth or the customer, prior to an order being actually provisioned. This activity must be completed on the front end of the provisioning process so the process is not disrupted midstream, causing unnecessary provisioning delays for the customer. The BellSouth-caused LENS system defect results in either the provisioning of a customer's order being disrupted midstream, or the provisioning process being unnecessarily delayed due to the manual workaround. Both of these results force needless inefficiencies that deny Birch a meaningful opportunity to compete. CAVE testing of the 9.4 release, prior to its implementation, would have prevented this entire problem.

---

[48] Due to BellSouth's continued refusal to allow CLECs to test LENS releases in CAVE, prior to their implementation, Birch has no assurance that any such resolution will occur.

Birch believes that without significant improvements to its Change Control, BellSouth cannot be deemed to meet the nondiscrimination standard set by this Commission. Birch proposes several modifications, as outlined in Mr. Wagner's Affidavit, including mandating that BellSouth allow CAVE testing of LENS release requirements. *Wagner Aff.* at 7. Absent these critical modifications, Birch believes that BellSouth fails to provide "the availability of a stable testing environment that mirrors production."[49]

The unwillingness of BellSouth to voluntarily allow CLECs to test LENS releases prior to implementation is reflective of the overall corporate attitude of BellSouth toward resolution of CLEC problems. It seems that BellSouth would rather dictate policies to CLECs than to partner with them to achieve a productive operational environment. Although Birch has not had the length of relationship with BellSouth that other CLECs have had, it is evident to Birch that BellSouth aspires to do the bare minimum in order to claim that its markets are open for competition. Birch experienced this same attitude by SBC in Texas. The difference is that SBC had that attitude in 1999, and that SBC was willing to improve itself operationally by working with the CLECs. The result for SBC was that the Texas Commission and ultimately this Commission recognized the strides made by SBC, from its corporate attitude on down, and granted Section 271 authority for SBC in Texas. While SBC remains far from perfect, it is fair to say that SBC at least attempts to work collaboratively with its CLEC customers. As reflected by its inadequate Charge Control processes, BellSouth does not. The Commission

[49] *Texas Order*, ¶ 108; *New York Order*, ¶¶ 109-10.

should, accordingly, deny the Application. The Commission should not grant the Application until BellSouth displays the desire to do the same.

VII. CONCLUSION

For the reasons shown above, the Application should be denied.

Albert H. Kramer
Jacob S. Farber
Robert Felgar
Gregory Kwan
DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L St., N.W.
Washington, D.C. 20037
(202) 785-9700

Counsel for Birch Telecom of the South, Inc.

By: Gregory Lawhon / gk
Gregory C. Lawhon
Senior Vice President
& General Counsel
Rose Mulvany Henry
BIRCH TELECOM OF THE
SOUTH, INC.
2020 Baltimore Ave.
Kansas City, MO 64108
(816) 300-3731

DECLARATION OF TAD JERRET (T.J.) SAUDER

I. QUALIFICATIONS

1. My name is Tad Jerret (T.J.) Sauder. I am Manager, ILEC Performance Data for Birch Telecom of the South, Inc. ("Birch"). I am responsible for ensuring that the performance standards established for each ILEC vendor within Birch's operational areas allow Birch a meaningful opportunity to compete. Additionally, I audit ILEC reported and raw performance measurement data for accuracy and completeness. I have participated in various collaborative processes, public service commission hearings, and have first hand knowledge of Birch's operational experience with reported ILEC performance.

2. I hold a Bachelor of Science degree in Accounting from Baker University, in Baldwin City, Kansas. Upon graduation in 1997, I began my career as a consultant for Andersen Consulting (now Accenture). In that capacity, I tested and implemented various telecommunications Operational Support Systems (OSS), ranging from provisioning systems to billing systems. Since early 2000, I have worked for Birch in the sole capacity as Manager, ILEC Performance Data. I have appeared before state commissions to discuss operational issues and performance measurements, including the Texas Public Utility Commission (Projects 20400 and 22165), the Oklahoma Corporation Commission (Cause No. PUD 990000131), the Kansas Corporation Commission (Docket No. 97-SWBT-411-GIT), the North Carolina Utilities Commission (Docket No. P-100, Sub 133K), and the Tennessee Regulatory Authority (Docket 01-00193). I participated in performance measurement collaboratives for many of the Ameritech states. Additionally, I have presented a workshop to the Kansas Corporation Commission staff on how Birch

audits and tracks Southwestern Bell's performance measurements and remedy payments.

3. In the Southwestern Bell territory, my reviews of Southwestern Bell reported performance have lead the Texas Public Utility Commission and the Missouri Public Service Commission to order an audit of specific reported performance standards (Oklahoma, Arkansas, and Kansas Commission's are also evaluating or have opened dockets as to determine whether to join the audit). Specifically, I identified key records errors in the LMOS database[1] that has been hotly debated as part of the Missouri and Arkansas 271 applications. I also identified a Southwestern Bell reporting deviation from the business rule of the Texas flow-through measurement.

II. BIRCH BACKGROUND

4. Founded in 1997 in Kansas City, Missouri, Birch is a competitive local exchange carrier (CLEC) serving small to mid-size businesses. Birch offers a range of services including local and long distance telephone service, business telephone systems, Internet access, and web hosting and development through local offices in 37 cities across Alabama, Georgia, Kansas, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee and Texas. These services are offered through a combination of resold, leased, and owned network facilities. Birch reached the ***REDACTED*** access line milestone in June of 2001, with over ***REDACTED***% being provisioned using the Unbundled Network Element

[1] The LMOS database inventories POTS type services and is used by RBOCs to track trouble reports for the services that are inventoried within (for example CLEC UNE-P access lines are inventoried in LMOS).

Platform (UNE-P). Birch has chosen to initially use UNE-P to service customers in the BellSouth territory.

III. PURPOSE AND SUMMARY

5. The purpose of my declaration is to present errors in BellSouth's reported performance for Georgia. I show that the data upon which BellSouth relies to report its performance results is unreliable and discuss how poor flow-through results in provisioning errors.

6. I also outline differences in the performance standards to which BellSouth is held, compared to the standards that Southwestern Bell and Verizon have been held in previously approved 271 applications.

7. I have reviewed BellSouth's raw performance measurement data as it relates to BellSouth's performance for ordering and provisioning. I have also contacted BellSouth in a failed attempt to reconcile the gap between BellSouth's reported performance measurement data with what Birch has experienced.

IV. BellSouth's Reported Performance Measurement Results for Flow-Through are Inaccurate, Inflated and Have Not Improved as BellSouth Claims

8. BellSouth's reported aggregate UNE flow-through performance for all CLECs has increased somewhat during the three months on which its current application is based[2]. Reported UNE flow-through performance for the months of May, June and July was 75%, 70.4%, and 78.5%[3] respectively.

---

[2] For purposes of this declaration, I concentrate on BellSouth's flow-through rate that excludes CLEC caused errors. As this Commission clearly points out in previous 271 orders, flow-through rates are somewhat dependent on CLEC errors and BellSouth should not be held responsible for those errors. Using the flow-through rate that excludes CLEC caused errors gives this Commission, the Georgia PSC, and CLECs a clear picture of BellSouth's flow-through performance. The

9. The BellSouth Georgia reported results for Birch UNE-P orders reflect dramatically greater increase in flow-through performance. Reported UNE-P flow-through for Birch for the months of May, June and July was ***REDACTED***%, ***REDACTED***%, and ***REDACTED***%, respectively.[4] These reported results reflect an increase in flow-through performance over a two-month period of more than ***REDACTED***%.

10. I contacted Birch's provisioning organization to assess their perception of BellSouth's reported improvement in flow-through performance. They did not perceive any improvement in BellSouth's performance. To confirm that BellSouth's reported improvement in flow-though was not accurate, I analyzed BellSouth's reported performance for FOC Timeliness.[5]

11. In Georgia, for the month of July, I found that BellSouth reported 853 flow-through LSRs[6] in the flow-through report, but only 568 FOCs under the

---

flow-through rate that excludes CLEC errors is also used to determine compliance with the Georgia SQM and to determine remedies to the CLECs.

[3] BellSouth Br. at 75. Birch initially noticed BellSouth's improvement in its flow-through performance because in the initial flow-through report (which was later corrected) BellSouth showed improvements of more than 25% over a two month period. Specifically, in the initial report BellSouth's reported flow-through performance in May was 74.87%, Exhibit PM-20, in June it was 78.33%, Exhibit PM-21, and in July it was 90%, Exhibit PM-22.

[4] The October 15, 2001 restatement, see note 6, below, did not change the Birch specific reports for Georgia.

[5] The FOC Timeliness measurement is used to determine if FOCs are returned to CLECs in a timely manner.

[6] The 853 flow-through LSRs were reported by BellSouth on August 20. Since that time BellSouth has twice restated July flow-through (latest being October 15). The flow-through raw data provided to Birch has not been re-issued by BellSouth, so for purposes of this Declaration I use the 853 figure. Additionally, the restated number of flow-through LSRs was 844 or a difference of 9, which is not a material difference in the number of orders. In addition to the 853 alleged flow-through LSRs, BellSouth reported 43 LSRs that required manual intervention and were eligible for flow-through.

electronically handled FOC Timeliness measurement. This discrepancy indicates problems with one of the two measurements. If BellSouth's reported performance measurements are accurate you would expect the reported number of Birch's orders that flowed-through to equal the reported number of FOCs that were handled electronically. This is because an order typically can only be considered to flow-through if the FOC was handled electronically.

12. In an effort to reconcile the differences in the two numbers, I sent an e-mail to BellSouth on August 30 outlining my concern (Attachment 1). Thirty-five days later, I received BellSouth's response to my question, which is included as Attachment 2 to this declaration. The response explains that the discrepancy between the number of orders that BellSouth flowed-through and the number of FOCs under the electronically handled FOC timeliness measurement was due to script changes to BellSouth's system made effective with BellSouth's July performance. Under the system changes, CLEC supplement orders to cancel previous orders are now considered flow-through orders. This increased the number of flow-though orders in July but did not increase the number of FOCs under the electronically handled timeliness measurement, thus creating a discrepancy between the two numbers. BellSouth further explained that in August it would count "dummy" FOCs which acknowledged cancellation of orders to be FOCs under the electronically handled timeliness measurement. This, according to BellSouth, will reduce the discrepancy in the future between the number of orders that flowed-through and the number of FOCs that were handled electronically.

13. BellSouth's explanation for the discrepancy in the reported number of orders that flowed-through and the number of FOCs under the electronically

handled FOC Timeliness measurement is simply not credible. It assumes that Birch cancelled over ***REDACTED*** orders in July (the difference between the ***REDACTED*** flow-through orders for Birch and ***REDACTED*** FOCs for Birch (these numbers are for all BellSouth states in which Birch operates) under the electronically handled FOC Timeliness measurement). This is simply not true. Birch knew from its own data that it did not cancel that many orders. If Birch cancelled that many orders per month it would not remain in business for long. The correct, and more believable explanation for the discrepancy is that BellSouth is simply not flowing-though as many orders as it claims.

14. Given the discrepancy in the data, I reviewed BellSouth's raw data used to calculate flow-through, as well as data regarding FOC Timeliness. If BellSouth's explanation is not correct (i.e., Birch did not cancel upwards of ***REDACTED*** orders), you would expect that the data should show that at least some of the Birch orders that BellSouth counted as flowing-through in fact involved manual processing, and these manually processed FOCs account for the difference between the number of flow-through orders and FOCs (***REDACTED***). For instance, you would expect that orders counted as flow-throughs would be reported in the FOC Timeliness raw data as having FOCs that were processed with some manual intervention. This is exactly what I found.

15. In Attachment 3 to this declaration I have reproduced the raw data for five Birch LSRs. Using BellSouth's instructions for interpreting the data (contained in Attachment 4), I reviewed the raw data. The raw data confirms that for these five orders BellSouth correctly reported that the orders flowed-through. The first Birch order, which is identified by the Purchase Order Number or PON,

20010712049200, has raw data that is consistent with flow-through. For instance, the third entry contains the note 'FOC STAGED FOR LSR' and the tenth entry contains the note 'ORDER NUM.'[7] This PON was also reported in the FOC Timeliness raw data as a Fully Mechanized FOC. The remaining four examples are very similar in that the raw data indicates that the orders did flow-through.[8]

16. Attachment 5 to this declaration is an example of five Birch orders that BellSouth also reported as flowing-through. These orders, however, have entries included in the raw flow-through data suggesting that the orders did *not* flow-through. Nonetheless, these orders are all reported in the FOC Timeliness raw data as partially mechanized.

17. The first example, PON GA436074 in Attachment 5 contains two entries suggesting that the orders did flow-through. These entries are 'INFO ORDER' in the sixth line and 'FOC STAGED FOR LSR' in the tenth line.[9] This PON, however, also contains two entries in the tenth and eleventh lines[10] that indicate that the LSR was placed in error status and subsequently claimed by a user id YBJNRFB. This means that a BellSouth employee with that id entered the order

---

[7] According to BellSouth's instructions in Attachment 4, an LSR is determined to flow-through if the system transactions captured in the raw data (usually 15-30 system transactions for each CLEC LSR) contain specific identifiers. Orders that are reported as flow-through have text in the note fields that contain 'FOC STAGED FOR LSR' or 'FOC AND CN STAGED FOR LSR' and 'ORDER NUM' or 'INFO-ORDER' or 'CANCELLED.'

[8] All four LSRs have system transactions that contain the following text in the note fields 'FOC STAGED FOR LSR' and 'INFO ORDER.'

[9] As Attachment 3 indicates, CLEC LSRs are reported as flow-through if specific text identifiers are present. These text identifiers are also present in samples included with Attachment 5.

[10] The indicators were "LSR IN ERROR STATUS PLACED BY LESOG" and "LSR Claimed by CUID-YBJNRB." LESOG is the Local Exchange Service Order Generator.

manually at a local service center, suggesting that the order did not flow-through. Further confirming that manual intervention was required for this order is that it was reported in the FOC timeliness raw data as partially mechanized. The remaining four examples in Attachment 5 similarly indicate that manual intervention was used to process the orders.[11]

18. Accordingly, a close look at the data shows that not all of the LSRs that BellSouth reported as flow-through orders in fact flowed-through. I identified ***REDACTED*** LSRs in the month of July as flow-through orders that were also reported as partially mechanized under the FOC Timeliness measurement. In light of this data, BellSouth's assertion that the difference between the reported number of LSRs that flowed-through and the number of FOCs under the electronically handled FOC Timeliness measurement can be explained by a system change is not credible. Not counting these partially mechanized FOCs as flow-through orders would reduce the Birch flow-through rate (excluding Birch errors) from ***REDACTED***% to ***REDACTED***% or by more than ***REDACTED***%.[12] I have included as Attachment ***REDACTED*** of

[11] The remaining four examples are very similar to the first in that they contain the flow-through text identifiers and also indicate manual intervention by entries that report that the LSRs were "claimed" by a BellSouth service representative. The entries in the four were: "LSR IN ERROR STATUS PLACED BY LESOG and LSR Claimed By CUID – YBCFQRW," Lines 31 and 32 of Attachment 5, "ERROR WITH PENDING ORDER PLACED BY LESOG and LSR Claimed By CUID – YZWPXBT," Lines 64 and 66, "LSR IN ERROR STATUS PLACED BY LESOG and LSR Claimed By CUID – YBCFQRW," Lines 83 and 84, "SOCS ERROR: FORMAT 001 FID OISF INVALID FOR BILL SECTION and LSR Claimed By CUID – YBCFQRW," Lines 97 and 98.

[12] BellSouth's current flow-through report indicates Birch's Georgia flow-through rate is ***REDACTED***%. This percentage is derived by treating BellSouth's restated ***REDACTED*** flow-through FOCs as the numerator over a denominator of ***REDACTED*** total orders that were eligible for flow-through treatment. See footnote 6. Subtracting ***REDACTED*** from the

the ***REDACTED*** *initially* reported flow-through LSRs in Georgia for Birch for July and the corresponding raw data results from the FOC Timeliness report. I was not able to completely replicate the BellSouth Flow-Through Report results, and thus not able to account for ***REDACTED*** of the ***REDACTED***.

19. I also matched BellSouth's reported flow-through and FOC Timeliness raw data to Birch's ordering transaction records in Birch's ordering database, RoboTAG, that interacts with BellSouth's TAG system.[13] I did this to check for the accuracy of the FOC Timeliness reports. While I did find significant discrepancies in this area, this comparison also uncovered the more concerning problem of additional manual intervention with respect to orders that BellSouth counted as flowing through. Specifically, I found that for orders that initially were processed electronically, Birch sometimes received a second FOC transaction from BellSouth containing a new due date. The second FOC transaction suggests that BellSouth's mechanized system was providing incorrect due dates and that manual handling was required to process Birch orders with correct due date information.

20. Attachment 7 lists ***REDACTED*** LSRs (out of the ***REDACTED*** LSRs that were reported as flow-through in Georgia) for which Birch received multiple FOCs. The first PON, 20010708290100, shown in the Attachment was returned with a Firm Order Confirmation due date of July 8, 2001. The second FOC for this order indicated a due date of July 9, 2001. The order was completed on July 9, 2001, confirming that the initial FOC did not

---

REDACTED, the restated value would be ***REDACTED***% (***REDACTED*** out of ***REDACTED***).

[13] RoboTAG and BellSouth's TAG system is discussed in Mel Wagner Jr's Declaration.

provide accurate due date information and suggesting that manual intervention was required to process Birch's order.[14] The second FOC generally contained the more accurate due date (to see this compare in Attachment 7, the due date on the second FOC in column I to the completion date in column J).

21. Not counting the ***REDACTED*** orders with two FOCs (three orders are omitted as they were initially reported as partially mechanized) as flow-through orders further reduces BellSouth's flow-through rate of Birch LSRs from ***REDACTED***% to ***REDACTED***%. Once again, this percentage excludes CLEC caused errors.

22. Also of interest from Attachment 7 is that the second FOC transaction was not reported for purposes of FOC Timeliness in any of the ***REDACTED*** examples. In other words, timeliness data reported by BellSouth also requires scrutiny.

V. MANUAL PROCESSING OF ORDERS CAUSES PROVISIONING ERRORS

23. Orders that BellSouth processes manually but which Birch submits electronically, i.e., partially mechanized orders, often result in inaccurate internal service orders. As discussed in Section IV, partially mechanized orders constitute more than one-third of all orders. Because of these inaccuracies Birch tries to follow a general practice of requesting that due dates be pushed back when converting a

[14] The Commission should note that Birch is trying to request later than standard interval provisioning due dates to give Birch more time to check the accuracy of BellSouth's internal service orders. The additional time allows Birch to correct any mistakes that BellSouth may have made on those orders prior to the time at which the customer is switched over to Birch. The problem of incorrect due dates may only occur in cases where a CLEC requests extended due dates. As a result CLECs that do not request extended due dates may not be aware of BellSouth's problem of incorrect due dates.

customer's existing BellSouth retail service to Birch UNE-P service. This provides Birch provisioning representatives additional time to review the internal BellSouth service order for accuracy prior to completion of the service order. Extended due dates are requested despite the fact that converting service from BellSouth to Birch involves no field work and typically only requires same day due dates. Examples of errors on BellSouth's internal service orders include omitting vertical features, incorrectly arranging hunt groups, assigning incorrect PIC codes, and in some cases omitting one or more of the telephone lines addressed on the Birch LSR.

24. BellSouth's inaccurate internal service orders have a real impact on customers. Birch does not *always* manage to review BellSouth's internal service orders for accuracy prior to completion of the conversion of the customer to Birch. In such instances BellSouth often provisions Birch's orders inaccurately, thus giving customers service they did not order or failing to provide service they did order.

25. Attachment 8 is a list of completed service orders that BellSouth reported with the Birch Average Completion Interval raw data for the month of July. It shows BellSouth's numerous provisioning mistakes in cases where Birch was not able to review the internal service order prior to converting the customer to Birch. Before explaining the detail of the attachment, I will explain BellSouth's ordering processes. As Mr. Stacy explains in his Declaration at ¶ 263, BellSouth uses a two-order process for converting BellSouth retail service to a CLEC UNE-P service. A 'D' or disconnect order disconnects the BellSouth retail service and a 'N' or new order reestablishes the UNE-P service. Any subsequent change to the UNE-P line is conducted through the use of a 'C' or change order.

26. Looking at Attachment 8 (service order number NOBJH2T9 and PON GA308830C), the first line is for a conversion order that was completed on July 9, 2001. After a review of the service order and after completion of the conversion, Birch noticed that the BellSouth Local Carrier Service Center ("LCSC")[15] representative had added two features (BCR – call return block, and BRD – repeat dialing block) that were not ordered by Birch, omitted two features that were ordered by Birch (ESM – call forwarding, and ESX – call waiting), and incorrectly set up the hunt group (compared to what Birch ordered on the LSR). On July 11th, after Birch contacted BellSouth, the LCSC placed service order COCPW0H9 to correct the mistake.[16]

27. Also, several of the service orders in Attachment 8 have text in the PON field that suggests that a correction was made. For example, for the third set of service orders (line 6 and 7), the Birch initiated PON is GA376283MAC. The service order that corrects the initial order uses the PON GA376283MAC-COR. The second PON was not initiated by Birch. A BellSouth representative probably added the '–COR' to indicate that a correction had been made to the previous PON. This type of error is visible throughout the Birch LSRs included in Attachment 8.

[15] BellSouth's LCSC is responsible for processing CLEC request that require manual handling, as well as other wholesale functions.

[16] Notice that the same PON was used. If this was a Birch initiated change, a different PON would have been used (due to Birch and BellSouth OSS limitations that do not allow the repeated use of the same PON).